

SAN FRANCISCO PUBLIC UTILITIES COMMISSION

Real Estate Services
1155 Market St., 4th Floor, San Francisco, CA 94103 • Tel. (415) 487-5210 • Fax (415) 487-5200



ATTACHMENT E

November 3, 2005

Mr. Bob Merrill
Administrative Analyst
City of Sunnyvale Parks Division
P.O. Box 3707
Sunnyvale, Calif. 94088-3707

Re: Letter of September 23, 2005, Revocable Permit P-3697

Dear Mr. Merrill,


I am sorry for the delayed response to the above referenced letter. I did receive your follow up fax to this request on November 2, 2005 as well. Our staff is a bit taxed at the moment as we move forward with our pending Capital Improvement Projects.

As you may know the San Francisco Public Utilities Commission (SFPUC) has issued numerous permits to the City of Sunnyvale for use of our rights of way and it took a bit of time to track this particular one down and figure out exactly how it relates to some pending residential development the SFPUC is planning along Manzano Way. This particular permit with the City of Sunnyvale is actually covered by way of Permit P-3697 dated July 12, 1994, not P-3247 as indicated in your letter. Regardless, the language you provided as Attachment B under the heading, "Fairwood Section" is actually taken from the correct permit P-3697.

Please consider this letter as formal modification to Section 2 (a) to include "community garden" as an acceptable use under P-3697 provided: 1) a formal plan must be submitted for review and stamped approval prior to commencement of any work in the permit area 2) the area shown highlighted on the attached exhibit is no longer considered a portion of P-3697 as the SFPUC is in the process of selling what will be two subdivided residential lots in this area to private developers for residential use.

If we can be of further assistance please contact Mr. Chester Huie of my staff at (415) 487-5215.

Sincerely,






Garrett M. Dowd
Director, Real Estate Services

cc: Chester Huie, RES
Jane Herman, WS&TD

Exhibit B

Permit (3697) to City of Sunnyvale

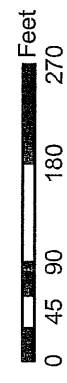
Legend

-  Area of Permit (3697)
Covering Portions of SFPUC
Parcel (No.s 145, 155-B & 146)
-  Area No Longer Covered
by Permit (3697)
-  Pipelines
-  SFPUC Parcels/Right-of-Way

Tax Assessor Parcels

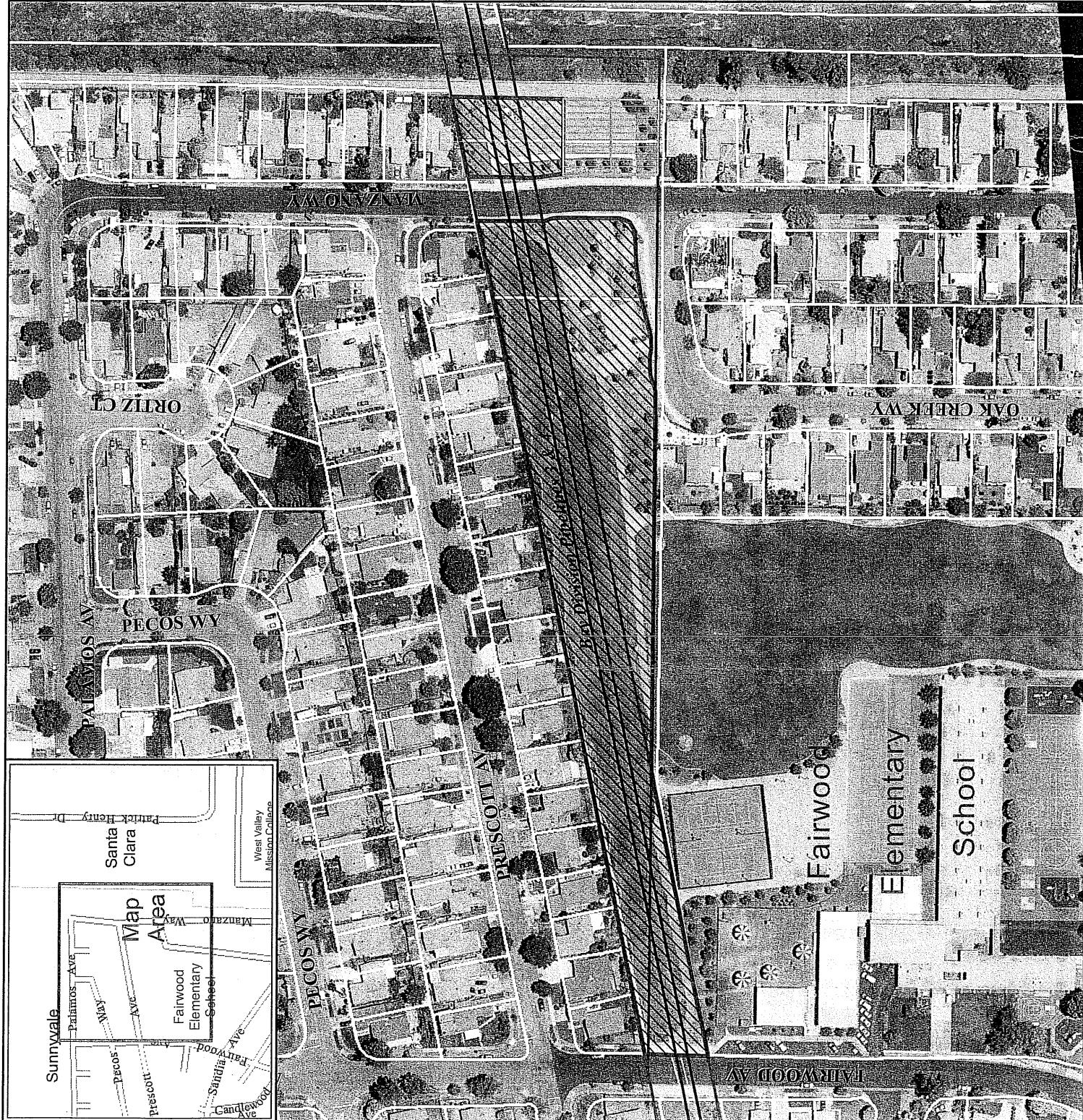
Scale 1 : 2,100

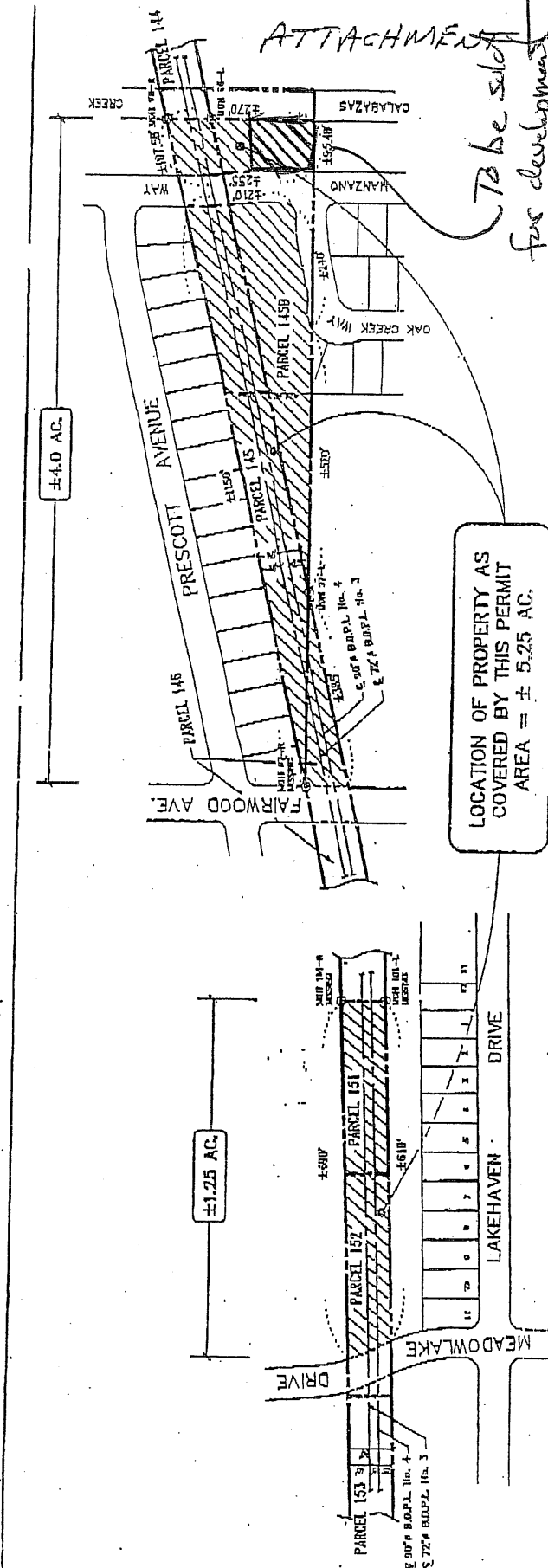
1 Inch = 175 feet



Date: 11-03-05

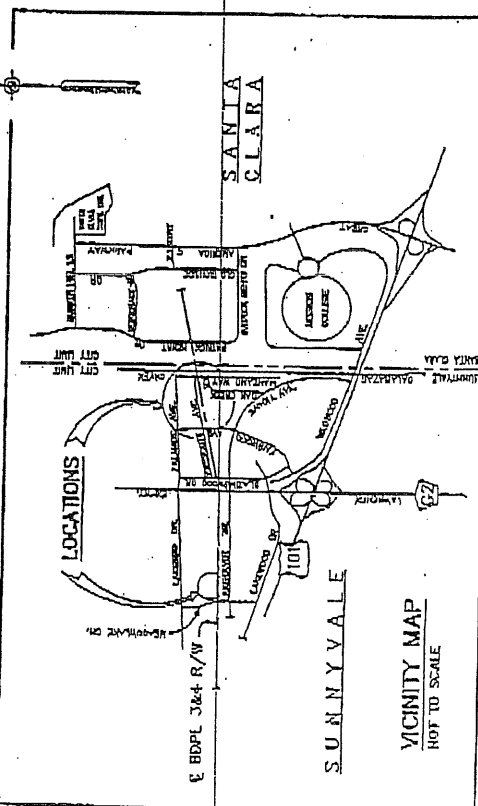
The City does not guarantee that the information is accurate or complete. The City provides this information on an "as is" basis and disclaims all warranties, express or implied, including but not limited to warranties of merchantability, fitness for a particular purpose and non-infringement. The City is not responsible for any damages arising from the use of data. Users should verify the information before making project commitments.





LEGEND:
 PERMIT AREA

ATTACHMENT
 To be sold
 for development



REV.	DATE	REVISION	BY	APP'D

CAUTION: CHECK WITH TRACING TO SEE IF YOU HAVE LATEST REVISION.
 CITY AND COUNTY OF SAN FRANCISCO
 PUBLIC UTILITIES COMMISSION
 SAN FRANCISCO-WATER DEPARTMENT

LAND USE PERMIT
 CITY OF SUNNYVALE
 LANDSCAPING, PEDESTRIAN AND BICYCLE PATH
 UNPL 3 & 4, POR OF PARS. 145, 146, 147, 148, 149, 150 & 152, SUNNYVALE S.C. 03

DESIGNED BY	ST	A. LUCAS	SR	ASR	DATE	JUNE 1994
DRAWN BY	RL		SI		SCALE	1" = 200'
APPROVED					STAMP NO.	

C-1083-
 UNIMPROVED LAND ENCROACHMENT



September 23, 2005

Mr. Garrett M. Dowd, Director
Bureau of Commercial Land Management
1155 Market St., 5th Floor
San Francisco, CA 94103

Dear Mr. Dowd:

The City of Sunnyvale is considering use of a portion of the hetch-hetchy land for a possible community garden. This area is located on parcel #145 between Fairwood Avenue and Manzano Drive. (see Attachment A). According to permit #P-3247 issued in July 12, 1994 section 2(a) (see Attachment B) states "Permittee may enter and use the Permit Area for the sole purpose of constructing and maintaining a pedestrian and bicycle path with landscaping in accordance with plans and specifications as attached hereto as Exhibit C, including, without limitation, Section 3(a) hereof, and for no other purpose whatsoever".

A second permit for the hetchy-hetchy section east of Silverlake Drive, #P-3750, issued on November 8th, 1996 mentions the ability to use the right of way for community gardens (see Attachment C). Section 2(a) states "Permittee may enter and use the Permit area for the sole purpose of landscaping and/or community gardens purposes in strict accordance with Section 3(a) hereof, and for no other purpose whatsoever".

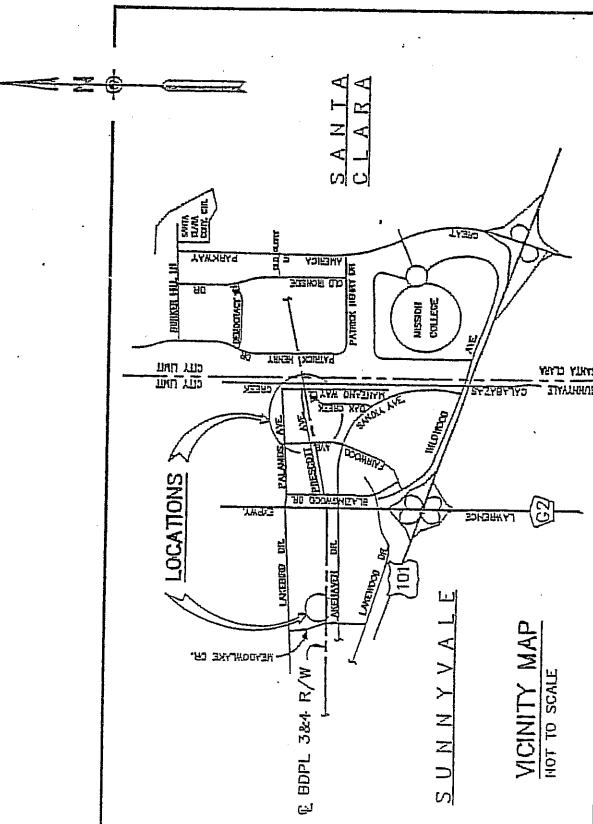
Please let me know if it would be possible to construct a community garden consisting of raised beds with organic material and managed with organic gardening practices on parcel 145 as permit P#3247 is currently stated. Thank you for your assistance.

Sincerely,

Bob Merrill
Administrative Analyst
City of Sunnyvale Parks Division

:rm

c: David Lewis, Director of Parks and Recreation
Attachments



LOCATION OF PROPERTY AS
COVERED BY THIS PERMIT
AREA = ± 5.25 AC.

LEGEND:



PERMIT AREA

[illegible]

REVISIONS

CAUTION: CHECK WITH TRACING TO SEE IF YOU HAVE LATEST REVISION

CITY AND COUNTY OF SAN FRANCISCO


PUBLIC UTILITIES COMMISSION

SAN FRANCISCO WATER DEPARTMENT

LAND USE PERMIT
CITY OF SUNNYVALE

LANDSCAPING, PEDESTRIAN AND BICYCLE PATI
DBDPL 3 & 4, POR. OF PARS. 145, 145B, 146, 151 & 152, SUNNYVALE S.C.

RECOMMENDED BY	DATE
<i>[Signature]</i>	

RECOMMENDED BY	BY	DIL	DATE
	A. LUCAS		

APPROVED	11	151	JUNE 1994
			SCIF

DATE	1" = 200'
NAME	R. G. Chen

DRAWING NO.

HALLUCINATIONS

מחלקת המבחן, משרד החינוך	ל
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STL F

SAN FRANCISCO WATER DEPARTMENT
REVOCABLE PERMIT

THIS REVOCABLE PERMIT dated for reference purposes only as of July 12, 1994, is made by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), acting by and through its Public Utilities Commission, San Francisco Water Department ("SFWD"), and CITY OF SUNNYVALE, ("Permittee").

City and Permittee agree as follows:

1. License. City confers to Permittee a revocable, personal, non-exclusive and non-possessory right to enter upon and use that certain real property owned by City situated in the City of Sunnyvale, County of Santa Clara, State of California, more particularly described Exhibit A attached hereto (the "Permit Area"), for the limited purpose and subject to the terms, conditions and restrictions set forth below. The Permit Area is shown generally on Drawing No. C-1083-1 attached hereto as Exhibit B. This Permit gives Permittee a license only and is not intended to grant any real property interest or estate in the Permit Area.

2. Use of Permit Area.

(a) Permitted Acts. Permittee may enter and use the Permit Area for the sole purpose of constructing and maintaining a pedestrian and bicycle path with landscaping in accordance with plans and specifications as attached hereto as Exhibit C, including, without limitation, Section 3(a) hereof, and for no other purpose whatsoever.

(b) Subject to Right-of-Way. Permittee is aware that the Permit Area constitutes a portion of City's water pipeline right-of-way. Notwithstanding anything to the contrary in this Permit, any and all of Permittee's activities hereunder shall be subject and subordinate at all times to City's use of the Permit Area for such water transport and any other municipal purpose.

3. Installation of Facilities. Permittee may install certain facilities consisting of the construction of a pedestrian and bicycle path and installation of landscaping on the Permit Area only upon satisfaction of the following conditions, which are for the sole benefit of City:

(a) Approval of Plans and Specifications. Permittee shall construct/install within the permitted facilities in accordance with plans and specifications (including drawings) approved in advance and in writing by SFWD and attached hereto as Exhibit C. Any revisions

ACKNOWLEDGES AND AGREES THAT NEITHER CITY NOR ANY OF ITS AGENTS HAVE MADE, AND CITY HEREBY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE PRESENT OR FUTURE SUITABILITY OF THE PERMIT AREA FOR PERMITTEE'S INTENDED WORK OR FACILITIES, THE IMPACT OF ANY TERM OR CONDITION OF THE DEEDS ON PERMITTEE'S RIGHTS UNDER THIS PERMIT, OR THE ABILITY TO OBTAIN OR DELIVER, OR THE PROCEDURE FOR OBTAINING OR DELIVERING, ANY NECESSARY APPROVALS, PERMITS, CONSENTS OR NOTICES FROM OR TO THE GRANTOR UNDER THE DEEDS OR ANY OTHER PARTY WITH RESPECT TO ANY MATTERS CONTAINED IN THIS PERMIT.

2. Use of Permit Area.

(a) Permitted Acts. Permittee may enter and use the Permit Area for the sole purpose of landscaping and/or community garden purposes in strict accordance with Section 3(a) hereof, and for no other purpose whatsoever.

(b) Subject to City Uses. Permittee is aware that the Permit Area constitutes a portion of City's water pipeline delivery system. Notwithstanding anything to the contrary in this Permit, any and all of Permittee's activities hereunder shall be subject and subordinate at all times to City's use of the Permit Area for municipal and other purposes.

3. Installation of Facilities. Permittee may install certain facilities consisting of landscaping and/or a community garden on the Permit Area only upon satisfaction of the following conditions, which are for the sole benefit of City:

(a) Approval of Plans and Specifications. Permittee shall install the permitted facilities in accordance with plans and specifications (including drawings) approved in advance and in writing by PUC. The plans and specifications may be revised or amended only with prior approval of the General Manager of the PUC after PUC's Manager of Environmental and Regulatory Affairs has determined that no further environmental review is required by CEQA as a result of any such revision or amendment.

(b) Permits and Approvals. Before beginning any work in the Permit Area, Permittee shall obtain any and all permits, licenses and approvals (collectively, "approvals") of all regulatory agencies and other third parties that are required to commence and complete the permitted work. Promptly upon receipt of such approvals, Permittee shall deliver copies of them to PUC. Permittee recognizes and agrees that no approval by PUC for purposes of Permittee's work hereunder shall be deemed to constitute the approval of any federal, state or local regulatory authority with jurisdiction, and nothing herein shall limit Permittee's obligation to obtain all such regulatory approvals, at Permittee's sole cost.

(c) Exercise of Due Care. Permittee shall use, and shall cause its Agents (as defined below) to use, due care at all times to avoid any damage or harm to City's water pipelines or other